

**GAO**

Fact Sheet for the Honorable  
William V. Roth, Jr., U.S. Senate

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November 1988

# DEFENSE MANAGEMENT

## Status of Recommendations by Blue Ribbon Commission on Defense Management





United States  
General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-221205

November 4, 1988

The Honorable William V. Roth, Jr.  
United States Senate

Dear Senator Roth:

As requested, we are reporting on the status of actions taken to implement the recommendations made by the President's Blue Ribbon Commission on Defense Management (Packard Commission).

The Packard Commission divided its recommendations into four sections and we have maintained the same structure in the appendixes II through V to this report. The appendixes contain a total of 55 recommendations. The results of our analyses are summarized below and the details are in the appendixes. Our analyses show the actions taken on the recommendations but it is still too early to assess the actual effect of most of the actions taken. The status of the recommendations is based on data available as of July 31, 1988.

Appendix II has the 17 recommendations that cover National Security Planning and Budgeting. In its recommendations the Packard Commission sought to closely relate defense plans to available resources, stabilize the defense budget process, and streamline the role of the Congress in reviewing the defense budget. While some action has been taken on most of the recommendations, little or no action has been taken on others. More specifically:

- The National Security Council provided a single budget level, instead of provisional budget levels, in the presidential guidance to the Secretary of Defense. (See rec. 1.1.)
- No changes have been made to reduce the redundancy among congressional committees and subcommittees reviewing the defense budget; however, a number of reforms have been proposed. (See recs. 1.7 thru 1.11.)
- The number of reports the Congress requests from the Department of Defense (DOD) has not been reduced. (See rec. 1.12.)

- The 5-year defense guidance, on which the fiscal years 1988 and 1989 budget was based, did not include budgets with an operationally oriented structure. (See rec. 1.14.)

Appendix III contains the nine recommendations calling for specific changes to the nation's military organization and command structure. These included designating the Chairman of the Joint Chiefs of Staff as the principal military adviser to the President as well as other changes to strengthen the Chairman's role and influence. The Commission believed these changes were necessary to ensure unified action by the military services. In April 1986, the President endorsed the recommendations and requested implementing legislation, which the Congress passed on October 1, 1986. Public Law 99-433, the Goldwater-Nichols DOD Reorganization Act of 1986, included as title II substantially all of the Commission's recommendations from section II. Most of the actions remaining to be completed involve the issuance of guidance instructions, reports, or manuals by the Secretary of Defense or the Chairman, Joint Chiefs of Staff.

Appendix IV covers 14 recommended changes to DOD's acquisition organization and procedures. These changes were proposed by the Packard Commission with the belief that the current acquisition cycle for a weapon system, which is about 10 to 15 years, could be cut in half. The Commission advocated, among other things, a streamlined reporting structure for managers of major weapon programs, an increased use of prototypes for the development of weapons, the use of off-the-shelf products, and commercial-style competition to reduce costs. The recommendations on streamlining have been incorporated into DOD regulations, and we are currently reviewing the regulations' implementation to determine if improvements have been made. We are also reviewing DOD efforts to implement the recommendations on using commercial products.

Appendix V contains the 15 recommendations addressing the relationship between the government and the defense industry. The Packard Commission believed that both contracting parties needed to change some of their operating practices to conduct business in a manner that serves the goal of securing the defense of our nation and its people.

In response to 6 of the 15 recommendations, members of the defense industry developed a series of 6 initiatives that included a code of ethics, implementation of the code, and the recognition that the industry is accountable to the public for the manner in which its members do business with the government. We have supported the industry initiatives but have expressed disappointment in the low number of industry members that have adopted them. The industry's need for individual contractors to institute internal control measures has been adequately demonstrated in past years and in the most recent disclosures of misconduct. Therefore, there must be vigilant oversight on the defense acquisition process, and if industry self-governance initiatives prove to be ineffective, then legislation requiring an annual management report on the internal controls and an independent verification of management's representation, should be seriously considered.

DOD has taken action to implement the other nine recommendations in appendix V. We have begun an assignment to review DOD's post-employment reporting system, which covers the employment by defense contractors of previous DOD acquisition officials. The Commission's recommendations 4.9 through 4.11 suggested several changes and the need for DOD to commit the resources necessary to vigorously administer its standards of conduct. Recommendations 4.7 and 4.8, which advocated that the Under Secretary of Defense for Acquisition establish a DOD-wide audit policy, could not be implemented because Public Law 99-661, the Defense Acquisition Improvement Act of 1986, reserves the authority to establish a contract audit policy to the DOD Inspector General. The act, however, requires the Under Secretary to prescribe policies, in coordination with the Inspector General, that will prevent duplicated oversight efforts by different elements of DOD. In January 1988, DOD published a regulation requiring all requests for contract reviews and contractor data be screened to prevent duplicative efforts.

We support the intent of the recommendations and legislative requirement to eliminate duplicative audits and investigations. However, we believe the official or organization responsible for determining audit policy should be independent of the official or organization that is charged with the operating responsibilities.

We do not support the Commission's recommendations 4.12 and 4.13, which propose establishing more precise criteria for applying suspension and debarment procedures. We believe

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the government's regulations and procedures contain sufficient criteria to provide contractors with due process, while protecting the public's interest by giving the government the means to avoid dealings with unethical business firms.

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As you requested, we did not obtain official agency comments on this fact sheet. However, we did discuss it with DOD officials and their comments have been considered in preparing the document.

As arranged with your Office, unless you publicly announce its contents earlier, we plan no further distribution of this fact sheet until 15 days from its date. At that time we will send copies to interested parties and make copies available to others upon request. Should you have any questions please call me on 275-8400 or Mr. James Wiggins on 275-4587.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Paul F. Math". The signature is stylized and cursive.

Paul F. Math  
Senior Associate Director

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## ABBREVIATIONS

CINCS	Commanders-in-Chief
DAE	Defense Acquisition Executive
DARPA	Defense Advanced Research Projects Agency
DOD	Department of Defense
GAO	General Accounting Office
JCS	Joint Chiefs of Staff
JRMB	Joint Requirements and Management Board
NSC	National Security Council
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
PEO	Program Executive Officer
SAE	Service Acquisition Executive
USD(A)	Under Secretary of Defense (Acquisition)

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to determine the implementation status of the recommendations made by the President's Blue Ribbon Commission on Defense Management. We obtained documents and interviewed personnel at the following locations in the Washington, D.C., area:

- Office of the Under Secretary of Defense (Acquisition);
- Defense Advanced Research Projects Agency;
- Ethics Resource Center, Inc.; and
- Office of the Comptroller, DOD.

Where appropriate, we reviewed Public Laws, DOD directives, DOD instructions, and other documents to verify statements made by government officials who informed us of the status of the Commission's recommendations. In addition, we determined the implementation status of some of the recommendations based on data from our audit teams doing assignments at the request of Committee Chairmen and Members of Congress.

To formally track the Commission's recommendations, we assigned numbers to each recommendation within each section as they appeared in the Packard Commission's "Final Report to the President", dated June 30, 1986. Each recommendation is identified by a number indicating its section and sequential order (i.e. "1.3" is the third recommendation in section I). The page on which it is located in the report appears in parentheses following our identifying number. We identified 55 recommendations in the Commission's report.

The recommendations in the report are highlighted in **bold** print as they were in the Packard Commission's report, while the status of implementation and comments appear in standard print. In appendixes IV and V, we included excerpts from the Commission's report to illustrate the intent or purpose of the recommendations. These excerpts appear immediately following the recommendation.

We performed our review from March 1988 to July 1988 in accordance with generally accepted government auditing standards.

STATUS OF RECOMMENDATIONS ON  
NATIONAL SECURITY PLANNING AND BUDGETING

Recommendation 1.1 (pg 13) **The National Security Council (NSC) would develop and direct a national security planning process for the President that revises current national security decision directives as appropriate and that provides to the Secretary of Defense Presidential guidance that includes:**

- A statement of national security objectives;
- A statement of priorities among national security objectives;
- A statement of major defense policies;
- Provisional five-year defense budget levels, with the advice and assistance of the Office of Management and Budget (OMB), to give focus to the development of a fiscally constrained national military strategy. Such budget levels would reflect competing demands on the federal budget as well as projections of gross national product and revenues; and
- Direction to construct a proposed national military strategy and strategy options for Presidential decision in time to guide development of the first biennial defense budget for fiscal years 1988 and 1989.

STATUS

We are uncertain on the implementation of this recommendation. According to DOD, the five segments of this recommendation were implemented through the issuance of and compliance with National Security Decision Directive 238 of August 1986. DOD stated that OMB issued fiscal guidance in February 1987 that assumed a 3-percent real growth in the budgets for fiscal years 1990 to 1994, and provided a provisional defense budget strategy for each year's budget. Only one budget level for each year was provided by OMB, whereas DOD believes several budget levels for each year should have been provided.

OUR COMMENT

We have an ongoing assignment to review the National Security Decision Directive process. On August 3, 1988, we testified before the House Committee on Government Operations on the use of Presidential Directives to make and implement United States policy. Our interim conclusions were that closely held documents, establishing or implementing administration policy, are a concern because national policy may be initiated and directed by the President without relevant congressional committees being consulted or informed. Given the breadth of topics that these directives cover, some type of notification to the Congress may be warranted. We plan to present our final report to the Committee in the near future.

Recommendation 1.2 (pg 14) Following receipt of the Secretary's recommended national military strategy, accompanying options, and a military net assessment, the President, with the advice of the NSC, would approve a particular national defense program and its associated budget level. This budget level would then be provided to the Secretary of Defense as five-year fiscal guidance for the development of biennial defense budgets such that:

- The five-year defense budget level would be binding on all elements of the Administration.
- Presidential guidance, as defined above, would be issued in mid-1986 to guide development in this transitional year of the first biennial defense budget for fiscal years 1988 and 1989 to the maximum possible extent.
- The new national security planning process would be fully implemented to determine the course of the defense budget for fiscal years 1990 to 1994.

#### STATUS

The 5-year defense budget plan is not yet completed. DOD stated that in August 1986, the President issued a revised national strategy after receiving the Secretary of Defense's military net assessment. In February 1987, the President issued revised fiscal guidance with which DOD developed and submitted a biennial budget for fiscal years 1988 and 1989. This budget was deemed not affordable by the Congress and was not approved. In November 1987, the administration and the Congress held a "budget summit" and ultimately agreed on a set of broad budget targets for fiscal years 1988 and 1989. In a February 1988 presentation on the amended fiscal year 1989 budget, the Secretary stated that biennial budgeting was fully implemented in DOD.

Recommendations 1.3, 1.4, 1.5, and 1.6 are closely related and are discussed below.

Recommendation 1.3 (pg 19) The Secretary of Defense, following receipt of the Presidential guidance described previously, should direct the Chairman of the Joint Chiefs of Staff (JCS), with the advice of the other members of the Joint Chiefs of Staff and the Commanders-in-Chief (CINCs) of the Unified and Specified Commands, to:

- Appraise the complete range of military threats to U.S. interests and objectives worldwide;
- Derive national military objectives and priorities from the national security objectives, major defense policies, and priorities received from the President; and
- Provide the Secretary of Defense a recommended national military strategy that:
  - Best attains those national security objectives provided by the President, in accordance with his policies and priorities;
  - Identifies the forces and capabilities necessary to execute the strategy during the five-year planning period; and
  - Meets fiscal and other resource constraints directed by the President during the five-year planning period.

Recommendation 1.4 (pg 19) At the direction of the Secretary of Defense, the Chairman should also develop strategy options to achieve the national security objectives. Such strategy options would:

- Frame explicit trade-offs among the Armed Forces;
- Reflect major defense policies and different operational concepts, in terms of different mixes of forces or different degrees of emphasis on modernization, readiness, or sustainability;
- Respond to each provisional budget level provided by the President;
- Explore variations within a particular provisional budget level; and

- Highlight differences in capability between the recommended national military strategy, on the one hand, and feasible alternatives, on the other.

Recommendation 1.5 (pg 20) At the direction of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, with the assistance of the other members of JCS and the CINCs, and in consultation with the Director of Central Intelligence, should also prepare a military net assessment that would:

- Provide comparisons of the capabilities and effectiveness of U.S. military forces with those of forces of potential adversaries for the Chairman's recommended national military strategy and other strategy options;
- Reflect the military contributions of Allied Forces where appropriate;
- Evaluate the risks of the Chairman's recommended national military strategy and any strategy options that he develops for the Secretary of Defense and the President; and
- Cover the entire five-year planning period.

Recommendation 1.6 (pg 20) The Secretary of Defense, following his review and analysis of the Chairman's recommendations, should provide to the President:

- The Secretary's recommended national military strategy and its corresponding five-year defense budget level, consistent with the President's policy and fiscal guidance;
- Appropriate strategy options and corresponding five-year defense budget levels sufficient to provide the President a wide range of alternatives in choosing a national defense program; and
- A military net assessment of the recommended national military strategy and strategy options.

#### STATUS

The Secretary, with the assistance of the Chairman, JCS, prepared a recommended military strategy and net assessment for the President.

Recommendation 1.7 (pg 28) A joint effort among the Appropriations Committees, the Armed Services Committees, the Office of Management and Budget, and the Department of Defense should be undertaken as soon as possible to work out the necessary agreements, concepts, categories, and procedures to implement a new biennial budget process for defense. Biennial budgeting for defense should be instituted in 1987 for the fiscal year 1988-89 defense budget. Congress should authorize and appropriate defense funding for those two years. The second year of this new biennial budgeting process should be used by both Congress and DOD to review program execution where appropriate.

#### STATUS

The 1986 DOD Authorization Act directed DOD to submit a biennial budget for fiscal years 1988 and 1989. DOD developed and submitted this budget to the Congress in January 1987. The biennial budget was not approved so DOD submitted an amended fiscal year 1989 budget. The Secretary of Defense plans to submit a biennial budget for fiscal years 1990 and 1991.

Recommendations 1.8 and 1.9 are closely related and are discussed below.

Recommendation 1.8 (pg 28) Congress should reduce the overlap, duplication, and redundancy among the many congressional committees and subcommittees now reviewing the defense budget.

Recommendation 1.9 (pg 28) The leadership of both parties in the House and the Senate should review the congressional process leading up to annual budget resolutions with the intent of increasing stability in forecasts for defense budgets for future years. We cannot stress strongly enough that a responsible partnership in providing for the national defense means agreement between Congress and the President on an overall level of a five-year defense program early in a new President's term in office and adherence to this agreement during his Administration.

#### STATUS

No changes have been made, however; a total of nine biennial bills have been introduced--three in the Senate and six in the House--and several of these bills would amend the budget review procedures of the Senate and House.

The 1988 DOD Authorization Act directed DOD to submit its five year defense plan used in formulating each year's budget submission. On March 16, 1988, DOD submitted the plan used in preparing the fiscal year 1988 and 1989 biennial budget.

Recommendation 1.10 (pg 29) **The Chairmen and ranking minority members of the Armed Services Committees and the Defense Appropriations Subcommittees should agree on a cooperative review of the defense budget that has the following features:**

- Review by the Armed Services Committees of the Defense budget in terms of operational concepts and categories (e.g., force structure, modernization, readiness, and sustainability, etc.);
- Review and authorization of individual programs by the Armed Services Committees that concentrate on new defense efforts at key milestones--specifically the beginning of full-scale development and the start of high-rate production--in terms of their contributions to major defense missions; and
- Review by the Appropriations Committees, using the new budget structured in terms of operational concepts and categories, to adjust the President's defense budget to congressional budget resolution levels through refinements based on information not available when the President's budget was formulated months earlier.

#### STATUS

We were told by the Committee staff that the Senate Committee on Armed Services is structured to review the budget in terms of operational concepts and categories. We were told by the Committee staff that the House Committee on Armed Services has studied the possibility of structuring its budget review in a similar manner; however, no decision has been made.

Legislation was enacted in October 1986 and codified in chapter 144, title 10, of the United States Code, which established milestone authorization for DOD acquisition programs to enhance program stability. Under the legislation if DOD commits itself to managing a program to agreed on cost, schedule, performance, and other requirements, the Congress will commit itself to stable, multiyear funding authorization for the program. The legislation required the Secretary of Defense (1) to designate a number of programs as Defense Enterprise Programs to receive streamlined management and (2) to nominate selected Defense Enterprise Programs as milestone authorization candidates. The Congress amended the legislation in 1987 to enable the House and Senate Committees on Armed Services to consider defense

acquisition programs for milestone authorization that have not been designated as Defense Enterprise Programs.<sup>1</sup>

Committee staff from the House and Senate Appropriations Committees indicated that a budget formatted in terms of operational concepts and categories would not be useful to the Committees in meeting their budget objectives and responsibilities.

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<sup>1</sup>In June 1988, we reported to the Chairman, Senate Committee on Armed Services on 23 acquisition programs that were approaching milestone decisions. DOD Acquisition Programs: Status of Selected Systems (GAO/NSIAD-88-160, June 30, 1988).

Recommendation 1.11 (pg 29) Congress should adhere to its own deadlines by accelerating the budget review process, so that final authorizations and appropriations are provided to DOD on time, and less use is made of continuing resolutions.

STATUS

The Congress used a continuing resolution to provide funding for DOD in fiscal year 1988. However, funding legislation for fiscal year 1989 was enacted prior to the start of the year.

Recommendation 1.12 (pg 29) **Congress should review and make major reductions in the number of reports it asks DOD to prepare and should closely control requirements for new reports in the future.**

STATUS

DOD and OMB are identifying the reports currently required by the Congress, and are in the process of drafting legislation to eliminate the requirement for some reports. Their search identified 319 reports required by statute and of a recurring nature. The draft legislation proposes that 97 of the reports be eliminated or repealed.

Recommendation 1.13 (pg 29) **The President should direct the Secretary of Defense and OMB to institute biennial budgeting for defense in 1987 for the fiscal year 1988-89 defense budget and budgets thereafter.**

STATUS

The 1986 DOD Authorization Act directed DOD to prepare a biennial budget for fiscal years 1988 and 1989. On January 12, 1987, the Secretary of Defense presented DOD's biennial budget and a report on fiscal years 1988 through 1992 defense programs. The biennial budget was not approved by the Congress. DOD submitted an amended budget for fiscal year 1989 and plans to submit a biennial budget for fiscal years 1990 and 1991 in 1989.

Recommendation 1.14 (pg 30) **The Secretary of Defense should develop and submit to Congress defense budgets and five-year plans within an operationally oriented structure. He should work with the appropriate committees of Congress and with OMB to establish the necessary mechanisms and procedures to ensure that a new budget format is established.**

STATUS

This recommendation was not implemented. DOD stated that as a matter of policy, it is willing to work with the Appropriations Committees of the Congress to develop an operationally oriented budget. However, in the past the Committees have been reluctant to undertake such sweeping changes, and DOD has no reason to believe the Committees have modified their position.

Recommendations 1.15, 1.16, and 1.17 are closely related and discussed below.

Recommendation 1.15 (pg 30) **The Secretary of Defense should institute a biennial programming process within DOD to complement the proposed biennial planning and budgeting processes.**

Recommendation 1.16 (pg 30) **The Secretary of Defense should work with the Armed Services Committees to define procedures for milestone authorization of major defense programs.**

Recommendation 1.17 (pg 30) **Baselining and multi-year procurement should be used as much as possible to reinforce milestone authorization.**

#### STATUS

The Secretary of Defense has stated that biennial budgeting and programming is fully institutionalized in DOD, and the President will submit a biennial budget for fiscal years 1990 and 1991. The biennial budget for 1988 and 1989 contained three weapon programs that were nominated for milestone authorization.<sup>2</sup> These three programs complied with the requirements of the Defense Acquisition Improvement Act of 1986 and procedures established by DOD. Each of the nominated programs contained baseline descriptions of critical cost, schedule, and performance parameters.

In addition, the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180), provided that the Congress may consider a weapon program for milestone authorization which the Secretary did not nominate. The Congress provided milestone authorization for four programs. According to the Office of the Secretary of Defense and military service officials, no additional programs were authorized in DOD's amended fiscal year 1989 budget submission.

On the implementation of recommendation 1.17, DOD officials stated that the intent of milestone authorization procedures was to effect program stability without awarding multiyear contracts.

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<sup>2</sup>Milestone authorization is the process of authorizing funding for either the full-scale development (milestone II) or the full-rate production (milestone IIIB) phase of defense acquisition programs, for multiyear periods (not to exceed 5 years).

OUR COMMENT

We are reviewing DOD's baseline descriptions of its acquisition programs.

STATUS OF RECOMMENDATIONS ON  
MILITARY ORGANIZATION AND COMMAND

Recommendation 2.1 (pg 37) Current law should be changed to designate the Chairman of the Joint Chiefs of Staff as the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense, representing his own views as well as the corporate views of the JCS.

Recommendation 2.2 (pg 37) Current law should be changed to place the Joint Staff and the Organization of the Joint Chiefs of Staff under the exclusive direction of the Chairman, to perform such duties as he prescribes to support the JCS and to respond to the Secretary of Defense. The statutory limit on the number of officers on the Joint Staff should be removed to permit the Chairman a staff sufficient to discharge his responsibilities.

Recommendation 2.3 (pg 37) The Secretary of Defense should direct that the commands to and reports by the Commanders-in-Chief of the Unified and Specified Commands should be channeled through the Chairman so that the Chairman may better incorporate the views of senior combatant commanders in his advice to the Secretary.

Recommendation 2.4 (pg 38) The Service Chiefs should serve as members of the JCS. The position of a four-star Vice Chairman should be established by law as a sixth member of the JCS. The Vice Chairman should assist the Chairman by representing the interests of the CINCs, co-chairing the Joint Requirements and Management Board, and performing such other duties as the Chairman may prescribe.

Recommendation 2.5 (pg 37) The Secretary of Defense, subject to the direction of the President, should determine the procedures under which an Acting Chairman is designated to serve in the absence of the Chairman of the JCS. Such procedures should remain flexible and responsive to changing circumstances.

Recommendation 2.6 (pg 38) Subject to the review and approval of the Secretary of Defense, Unified Commanders should be given broader authority to structure subordinate commands, joint task forces, and support activities in a way that best supports their missions and results in a significant reduction in the size and numbers of military headquarters.

Recommendation 2.7 (pg 38) The Unified Command Plan should be revised to assure increased flexibility to deal with situations that overlap the geographic boundaries of the current combatant commands and with changing world conditions.

Recommendation 2.8 (pg 38) For contingencies short of general war, the Secretary of Defense, with the advice of the Chairman and the JCS, should have the flexibility to establish the shortest possible chains of command for each force deployed, consistent with the proper supervision and support. This would help the CINCs and the JCS perform better in situations ranging from peace to crisis to general war.

Recommendation 2.9 (pg 38) The Secretary of Defense should establish a single unified command to integrate global air, land, and sea transportation, and should have flexibility to structure this organization as he sees fit. Legislation prohibiting such a command should be repealed.

#### STATUS

Progress has generally been made in implementing these recommendations. The Goldwater-Nichols DOD Reorganization Act of 1986, Public Law 99-433, Title II, covered substantially all of the specific actions recommended by the Packard Commission, although there were specific differences. For example, the Packard Commission recommended (see rec. 2.4) that the Vice Chairman, JCS, be established by law as a sixth member of JCS and represent the interests of CINCs. The Goldwater-Nichols Act states that

"the Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as chairman."

The Chairman, JCS, serves as the spokesperson for CINCs.

#### OUR COMMENT

Our review of DOD's implementation of title II is completed, and we plan to issue a report in the near future. Most of the actions remaining to be completed involve the issuance of guidance documents, reports, or manuals by the Secretary of Defense or the Chairman, JCS.

Based on our review, we believe the Goldwater-Nichols Act complied with the intent of the Commission's recommendations

despite some differences between them. Complete implementation of title II will take time because this is an evolutionary process. It will probably take as long as 5 more years for some of the changes to become fully effective.

STATUS OF RECOMMENDATIONS ON ACQUISITIONORGANIZATION AND PROCEDURES

Recommendation 3.1 (pg 53) **We strongly recommend creation by statute of the new position of Under Secretary of Defense (Acquisition) and authorization of an additional Level II appointment in the Office of the Secretary of Defense.**

EXCERPT FROM THE  
COMMISSION REPORT

The new Under Secretary should be the Defense Acquisition Executive. As such, he should supervise the performance of the entire acquisition system and set overall policy for R&D, procurement, logistics, and testing. He should have the responsibility to determine that new programs are thoroughly researched, that military requirements are verified, and that realistic cost estimates are made before the start of full-scale development. (In general, we believe, cost estimates should include the cost of operating and maintaining a system through its life.) He should assure that an appropriate type of procurement is employed, and that adequate operational testing is done before the start of high-rate production. He also should be responsible for determining the continuing adequacy of the defense industrial base.

STATUS

On November 14, 1986, the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) created the position of Under Secretary of Defense (Acquisition) (USD(A)). Specifically, title IX, generally referred to as the Defense Acquisition Improvement Act of 1986, states

"There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector."

The act continued by stating that the individual appointed to this position would be the Defense Acquisition Executive (DAE) and would have such responsibilities as

-- establishing acquisition policy,

- supervising DOD acquisition, and
- establishing DOD policy for maintenance of the defense industrial base.

DOD issued Directive 5134.1 on February 10, 1987, to implement the act. This directive established the Office of USD(A) and defined the responsibilities of the office. Specifically, the directive stated

"The Under Secretary of Defense for Acquisition (USD(A)) is the principal staff assistant and advisor to the Secretary of Defense for all matters relating to the acquisition system; research and development; production; logistics; command, control, communications, and intelligence activities related to acquisition; military construction; and procurement."

The detailed duties and responsibilities assigned to the Under Secretary under this directive appeared to address the areas envisioned by the Packard Commission. However, in a July 1987 assessment of the implementation of the Commission's recommendations, Chairman Packard told the President that USD(A) had not been given adequate authority.

Mr. Richard Godwin was appointed as the first USD(A). During his time in office, September 30, 1986, to September 15, 1987, DOD proceeded to define in detail the authority and responsibilities of USD(A). Based on DOD documents and hearings held by the House Committee on Armed Services on the duties and authority of USD(A), there was a lack of consensus among the military services, the Office of the Secretary of Defense, and Mr. Godwin on the role that the Packard Commission and the Congress had envisioned for USD(A). The differences between the parties centered on the following questions:

- What line authority does USD(A) have over the service secretaries?
- Does the USD(A) have line authority over the Service Acquisition Executives (SAEs)?
- Does the USD(A) establish priorities for, and redirect, programs and resources in the services (milestone decision authority)?
- What are the roles and authorities of the SAEs?

-- What is the process for resolving disagreements between USD(A) and the Service Secretaries?

-- What functions and programs are included under acquisition?

These questions were answered in September 1987 with the issuance of DOD directives on major system acquisitions, such as Directives 5000.1 and 5000.2. Mr. Godwin did not agree with the decisions and resigned.

At the September 1987 hearings, Dr. William Perry, a Packard Commission member, testified:

"The whole series of recommendations that have been made in the acquisition reform area, in my judgment, have been followed in form but not in substance. As a result, there is no discernable improvement in defense acquisition in the last year. Indeed, the situation may be worse today than it was two years ago when the Packard Commission was formed."

Dr. Robert Costello was appointed to serve as the next USD(A). In a December 29, 1987, memorandum, the Deputy Secretary of Defense clarified the authorities and relationships of the USD(A) under applicable status and DOD policies and procedures. According to this memorandum the USD(A) was expected to make decisions on major defense acquisition programs, except for milestone decisions. These decisions are made by the Secretary of Defense based on recommendations from USD(A), which are based on advice from the Defense Acquisition Board.<sup>1</sup>

In July 1988, the USD(A) held a conference at the Defense Systems Management College, which was attended by the Secretary of Defense, top-level acquisition officials, and Mr. David Packard,

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<sup>1</sup>The Defense Acquisition Board is the primary forum for DOD components to provide advice and assistance concerning acquisition matters to the Secretary of Defense. The Board assists the Defense Acquisition Executive (USD(A)) with milestone reviews. Permanent members include the USD(A), Vice Chairman of the JCS, the SAEs Assistant Secretaries of Defense-- Comptroller, Production and Logistics, and Program Operations-- Directors of Defense Research and Engineering and Program Analysis and Evaluation, and the appropriate chairs of acquisition committees.

to discuss changes needed in DOD's acquisition system. Some changes proposed at the conference centered on the acquisition management decision issues that the previous USD(A) questioned, such as acquisition resource allocation and control and streamlining organizations and communications.

Recommendation 3.2 (pg 54) **The Army, Navy, and Air Force should each establish a comparable senior position filled by a top-level civilian Presidential appointee.**

EXCERPT FROM THE  
COMMISSION REPORT

We recommend that each Military Department establish a Service Acquisition Executive selected by the Service Secretary in consultation with the Defense Acquisition Executive. The Service Acquisition Executive should be top-level civilian Presidential appointee, of rank equivalent to a Service Under Secretary. He should be responsible for administering Service acquisition programs under policy guidance from the Defense Acquisition Executive; accordingly, he should have substantial experience in acquisition and should devote full time to his acquisition responsibilities. For major programs, the Defense Acquisition Executive and his Service counterpart should function respectively like chief executive officers of a corporation and a principal corporate subsidiary. They should resolve major issues and conflicts as they arise and represent programs before most senior decision-makers (here, the Secretary of Defense, the President, and Congress, rather than a board of directors).

STATUS

On July 8, 1986, in response to the National Security Decision Directive Number 219--"Implementation of the Recommendations of the President's Commission on Defense Management," dated April 1, 1986--DOD issued Directive 4245.1. This directive specifically stated that the secretary of each military department shall establish guidelines for the acquisition of defense systems and equipment, which include designating a civilian presidential appointee to serve as their SAE. Directive 4245.1 also briefly outlined some of the duties of the SAE.

As of June 1988, each of the services had issued regulations implementing the directive. Further, they had each designated an existing billet as a SAE position. The following individuals have been appointed to serve as SAE's for their respective service.

- Army: Under Secretary of the Army.
- Navy: Under Secretary of the Navy.
- Air Force: Assistant Secretary for Acquisition.

OUR COMMENT

The Air Force SAE is the only full-time SAE, however, this official is not equivalent to an under secretary. The Army and Navy SAEs, as the service's under secretary, must also serve the service secretary on a variety of matters unrelated to acquisition. The Packard Commission saw the SAEs as the full-time administrators of the services' acquisition programs, resolving major issues and conflicts, and representing the services' major programs before senior decisionmakers.

Recommendation 3.3 (pg 54) **Each Service Acquisition Executive should appoint a number of Program Executive Officers.**

EXCERPT FROM THE  
COMMISSION REPORT

Each Program Executive Officer should be responsible for a reasonable and defined number of acquisition programs. Program managers for these programs should be responsible directly to their Program Executive Officer and, on program matters, report only to him. Each Service should retain flexibility to shorten this reporting chain even further, as it sees fit. The Defense Acquisition Executive should insure that no additional layers are inserted into this program chain of command.

STATUS

On July 8, 1986, in response to the National Security Decision Directive Number 219--"Implementation of the Recommendations of the President's Commission on Defense Management," dated April 1, 1986--DOD issued Directive 4245.1. This directive provides for the establishment of Program Executive Officer (PEO) positions within each military department.

DOD Directive 4245.1 specifically states the secretary of each military department shall establish guidelines for the acquisition of defense systems and equipment, which include having PEO's who administer a defined number of acquisition programs. Further, these guidelines state that each PEO will be directly responsible to the SAE on all program matters.

Each of the services have issued regulations establishing PEO positions and describing the responsibilities of those appointed to fill the positions. The Navy and Air Force designated the commander of each of their major commands as PEOs. Unlike the other two services, the Army did not appoint the commanders of its commodity commands as PEOs. Rather, the Army's PEOs represent new organizations that oversee programs that support related missions. For example, the PEO for close combat vehicles oversees programs for tanks, armored personnel carriers, and similar tracked vehicles.

At the July 1988 Acquisition Leadership Conference, see recommendation 3.1, the DOD acquisition executives identified problems PEOs and program managers encountered when complying with existing rules, regulations, policies, and procedures, and the existing organizational structure. For example:

- PEOs and program managers must continually "fight the system," opposing a multitude of single-interest advocates installed through legislation, regulation, or policy to protect a single interest, and who care little about the balance of tradeoffs that must be made in order to field an effective weapon system, and their views often prevail. All participants in the acquisition process must become more sensitive to the great gains in effectiveness possible when each program is "tailored" to meet its needs. DOD Directive 5000.1 and DOD Instruction 5000.2 as written are not producing effective tailoring.
- The PEO and program manager continue to experience great difficulty in driving documentation, briefings, planning and budgeting matters, and programmatic and functional issues through the organizational chain. The existing chain of command is immobile, has a not-invented-here mind set, contains too many professional critics and advocates, and creates nonproductive work for program managers.

The acquisition executives proposed the following changes to streamline the administrative and programmatic processing of major acquisition programs.

- First, DAE needs to develop and implement a firm policy requiring tailoring. Streamlining tradeoffs should be mandatory topics for discussion at the Defense Acquisition Board and its committees. Second, DAE should designate responsibility for tailoring advocacy in each program to the PEO for that program. Program managers, in turn, should be directed to cite in their acquisition strategy (and should be recognized for) steps they are planning to take to tailor their program.
- Senior management must redefine headquarters functions and responsibilities to reflect proper emphasis on policy, processes, oversight, and integration. Senior management must realign responsibilities of line operating elements to properly balance policy and execution and eliminate headquarters involvement in programmatic detail, and hold appropriate leadership responsible for quality results.
- Senior management must reallocate personnel resources to force a dramatic change in the way headquarters elements operate, reduce acquisition related personnel assigned to the Office of the Secretary of Defense by 50 percent, reduce acquisition personnel assigned to military department and other subordinate headquarters by 25 percent, and reallocate some of

these spaces and grades to PEO and program manager management teams.

OUR COMMENT

By establishing and filling PEO positions, DOD and the services have addressed an objective of the Commission's recommendation. The degree to which DOD has streamlined the acquisition process by establishing the Under Secretary, SAE, and PEO positions is the subject of our ongoing assignment.

Recommendation 3.4 (pg 54) **Federal laws governing procurement should be recodified into a single, greatly simplified statute applicable government-wide.**

EXCERPT FROM THE  
COMMISSION REPORT

A streamlined organization for defense acquisition is not enough. It must be matched by streamlined procedures. Over the years, Congress and DOD have tried to dictate management improvements in the form of ever more detailed and extensive laws or regulations. As a result, the legal regime for defense acquisition is today impossibly cumbersome. Congress should work with the Administration to recodify all federal statutes governing procurement into a single government-wide procurement statute. This recodification should aim not only at consolidation, but more importantly at simplification and consistency.

STATUS

In May 1986, the Office of Federal Procurement Policy (OFPP) began drafting legislation to meet the recommendation's intent. On September 10, 1986, the General Counsel, Office of the Secretary of Defense, commented that OFPP's draft was too complex and it needed more emphasis on commercial-style competition. OFPP is incorporating DOD's comments and those from 26 agencies into the draft before it is submitted to the Congress.

**Recommendation 3.5 (pg 55) By reorganizing the acquisition organization, the Department of Defense should substantially reduce the number of acquisition personnel. (See recommendations 3.1, 3.2, and 3.3.)**

EXCERPT FROM THE  
COMMISSION REPORT

Establishing these short, unambiguous lines of authority will streamline the acquisition process and cut through bureaucratic red tape. This should allow for a substantial reduction in the total number of personnel in the defense acquisition system, to levels that more nearly compare with commercial acquisition counterparts.

STATUS

All three services have taken some action to reduce the number of acquisition personnel. Some of the reductions were made to comply with the Goldwater-Nichols Act. Title V of the act mandated a reorganization of the acquisition function in the military departments' headquarters staffs. The act was seen as complementing the Packard Commission's recommendations. The acquisition staff changes made by the military departments are described below.

Army

The Army undertook an extensive restructuring of its headquarters acquisition activities. It designated the Under Secretary as SAE and created a new entity, the Office of the Army Acquisition Executive. The Under Secretary was also appointed the Army's Senior Procurement Executive. Prior to the reorganization, three organizations were responsible for acquisition management activities for most systems and equipment--the secretariat's acquisition organization, the Chief of Staff's research, development, and acquisition organization, and elements of the Chief of Staff's logistics organization (which was responsible for overseeing the Army's contracting activities). These organizations were integrated to form the new Office of the Assistant Secretary for Research, Development, and Acquisition. In addition, a third military staff organization having responsibility for acquisition of information systems was moved to the secretariat. The new Assistant Secretary's office and the information systems office form the Office of the Army Acquisition Executive.

The Army Acquisition Executive is now supported by a staff of 451--273 staff in the Office of the Assistant Secretary, 149 staff in the Office of the Director of Information Systems for Command, Control, Communications, and Computers, and 29 staff in the Office of the Under Secretary. In comparison, prior to the reorganization, the primary secretariat acquisition organization had 37 staff members.

#### Air Force

The Air Force reorganized its headquarters acquisition organization by merging the Chief of Staff's research, development, and acquisition office with the Office of the Assistant Secretary for Acquisition and Logistics. The Assistant Secretary for Acquisition who heads this newly formed organization is designated as the Air Force SAE and the Senior Procurement Executive. The Assistant Secretary now oversees a staff of 320. This represents a substantial change from the 39-person staff which comprised the previous secretariat acquisition organization.

Some segments of the former secretariat acquisition organization, even though they have acquisition responsibilities, did not become part of the new acquisition organization. Personnel from the acquisition secretariat office responsible for such activities as acquisition logistics and acquisition through foreign governments went to the Assistant Secretary for Readiness Support. In addition, acquisition management responsibilities for some types of equipment, such as vehicle test equipment and ammunition, remain in the Chief of Staff's organization.

#### Navy

Few changes were made in the Navy headquarters acquisition programs although more substantial realignments were made at Marine Corps headquarters. The Navy designated the Under Secretary as the Navy SAE. He is responsible primarily for major defense acquisition programs to be implemented through the three-tier management approach recommended by the Packard Commission, as well as other appropriate significant acquisition issues. In advising the Congress on how the Navy complied with the act, the Secretary stated that the Under Secretary had been given responsibility for all departmental acquisition matters and is assisted by two assistant secretaries, as permitted under the act.

The Navy has designated the Assistant Secretary for Research, Engineering, and Systems as responsible to the Secretary or the

Navy SAE for all department acquisition programs, except shipbuilding, up to full-scale production, including policy and administration. The Assistant Secretary for Shipbuilding and Logistics is responsible for the Navy's shipbuilding programs and for all acquisition production and support functions for the Navy and Marine Corps. He is also the Navy's Senior Procurement Executive and reports to the Navy SAE on acquisition matters.

The major organizational change taken in response to title V was the transfer of staff from the Chief of Naval Operations research and development office to the staff of the Assistant Secretary for Research, Engineering, and Systems. This staff coordinates research and development requirements, monitors programs, and reviews test and evaluation plans. This change was completed in July 1988. As a result of this change, the SAE staff was augmented by 64, bringing the total to 342 staff.

#### Marine Corps

Acquisition management of Marine Corps programs is different than the other three services since Marine Corps aircraft are acquired through the Navy acquisition management system and funded by the Navy aircraft procurement budget. Prior to the Reorganization Act, responsibility for other Marine Corps acquisitions was divided among several Marine Corps headquarters organizations. As a result of the Reorganization Act and the Marine Corps' recognition of the need to improve its acquisition management system, two new field commands were created and responsibility for most Marine Corps headquarters acquisition activities were transferred to these commands.

The newly established Combat Development Command was given responsibility for developing acquisition program requirements. A Research, Development, and Acquisition Command was established and most of the tactical acquisition functions formerly performed by about 350 headquarters personnel were transferred from various headquarters organizations to it. The commander, who functions as the Marine Corps' principal acquisition executive, has the authority, responsibility, and accountability for all Marine Corps tactical systems except aircraft. He is also dual-hatted as the Navy Deputy Assistant Secretary for Research, Engineering, and Systems. Additionally, until September 1, 1988, when the position was eliminated, he also served as the Marine Corps Deputy Chief of Staff for Research, Development, and Acquisition. As a result of the disestablishment of this organization, the Marine Corps recommended the transfer of seven personnel to the office of the Navy Assistant Secretary for Research, Engineering, and Systems to monitor Marine Corps programs for the Navy

secretariat. As of September 22, 1988, this transfer has not taken place. However, Navy secretariat officials said they concur with the Marine Corps' recommendation and plan to accomplish the transfer when a reorganization plan for the Navy secretariat is completed and implemented.

OUR COMMENTS

Our ongoing review will include a more detailed evaluation of the total acquisition personnel reduction that has occurred.

Recommendation 3.6 (pg 55) We recommend a high priority on building and testing prototype systems to demonstrate that new technology can substantially improve military capability, and to provide a basis for realistic cost estimates prior to a full-scale development decision. Operational testing should begin early in advanced development, using prototype hardware. The early phase of Research and Development should employ extensive informal competition and use streamlined procurement processes.

EXCERPT FROM THE  
COMMISSION REPORT

We believe that DOD should place a much greater emphasis on using technology to reduce cost--both directly by reducing unit acquisition cost and indirectly by improving the reliability, operability, and maintainability of military equipment. In some of our new weapon systems--fighter aircraft, for example--the need for maximum performance will be sufficiently compelling to justify the introduction of state-of-the-art technology. But this is not the case for all new systems. A weapon system should be predicated on state-of-the-art technology only when the benefits of the new technology offset the concomitant risks. This principle, easy to state, is hard to apply because of the difficulty in getting reliable information with which to make the trade-off of risks and benefits. The only consistently reliable means of getting such information is by building prototypes that embody the new technology. Accordingly, we recommend that such prototyping, either at the system or critical subsystem level, be done as a matter of course with developmental tests of the prototype to uncover operational as well as technical deficiencies before a decision is made to proceed with full-scale development.

The early phase of Research and Development should follow procedures quite different from those of approved production programs, in order to complete the entire prototyping cycle in two or three years. Contracting should be streamlined to speed up the process of evaluating diverse new ideas. In the advanced technology phase of a program, competition should play a critical role, but the emphasis should be on an informal competition of ideas and technologies, rather than a formal competition of cost. At this stage, a formal competition based on detailed specifications not only is ineffective, but also introduces substantial delay. In fact, recent emphasis on cost competition has stretched out the time required to let some Research and Development contracts from a few months to as much as a year.

STATUS

The Defense Acquisition Improvement Act of 1986 directed competitive prototyping for all major systems/subsystems. In addition, it required that prototype testing be designed to reproduce combat conditions.

According to DOD, the following actions have occurred in response to the recommendation:

- The Defense Acquisition Board will review the prototyping strategy for each major system at milestone I.
- DOD Directive 5105.41 revised the charter of the Defense Advanced Research Projects Agency to reflect the Commission's recommendations. Also, DOD Directive 5000.1, Defense Acquisition Programs and Directive 5000.2, Defense Acquisition Program Procedures were amended to reflect the Commission's recommendations on prototyping, operational testing, and streamlined procedures.

An example of the implementation of this recommendation, the Office of the Director, Operational Test and Evaluation cited the Advanced Tactical Fighter Program for which two competing prototypes were to be built for operational testing.

Recommendation 3.7 (pg 55) **To promote innovation, the Defense Advanced Research Projects Agency (DARPA) should engage in prototyping and other advanced development work on joint programs and in areas not adequately emphasized by the Services.**

EXCERPT FROM THE  
COMMISSION REPORT

At present, DARPA conducts research and exploratory development in high-risk, high-payoff technologies. DARPA should have the additional mission of stimulating a greater emphasis on prototyping in defense systems. It should do this by actually conducting prototype projects that embody technology that might be incorporated in joint programs, or in selected Service programs. On request, it also should assist the Services in their own prototyping programs. The common objective of all of these prototyping programs should be to determine to what extent a given new technology can improve military capability, and to provide a basis for making realistic cost estimates prior to a decision on full-scale development. In short, the prototype program should allow us to fly--and know how much it will cost--before we buy.

STATUS

DOD issued a revised charter for the agency which states:

"DARPA shall stimulate a greater emphasis on prototyping in defense systems by conducting prototype projects that embody technology that might be incorporated in joint programs in support of deployed U.S. forces, including the unified and specified commands or selected Service programs and, on request, assist the Services in their own prototyping programs."

DARPA compiled a list of 40 candidate programs for possible prototype development. Two of the programs were targeted for fiscal year 1988 and two for fiscal year 1989. DARPA received \$55 million in the 1988 budget and requested \$41 million in the 1989 budget for prototype development.

OUR COMMENT

Our past work<sup>2</sup> has shown that joint programs present difficult management problems. Doctrinal differences, not-invented-here parochialism; civilian-military polarity; pursuit of service distinction; and legitimate, real differences in technical and operating requirements were formidable obstacles. Consequently, we believe that each joint program proposal for prototyping should be carefully evaluated.

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<sup>2</sup>Joint Major System Acquisition by the Military Services: An Elusive Strategy (GAO/NSIAD-84-22, Dec. 23, 1983).

Recommendation 3.8 (pg 57) A restructured Joint Requirements and Management Board (JRMB), cochaired by the Under Secretary of Defense (Acquisition) and the Vice Chairman of the Joint Chiefs of Staff, should play an active and important role in all joint programs and in all major Service programs. The JRMB should define weapon requirements for development, and provide thereby an early trade-off between cost and performance.

EXCERPT FROM THE  
COMMISSION REPORT

The JRMB should be responsible for two decisions commonly made in industry, but not now an explicit part of DOD's decision-making process. One of these is the "affordability" decision, and the other is the "make-or-buy" decision.

The affordability decision requires that a subjective judgment be made on how much a new military capability is worth. If a new weapon system can be developed and produced at that target cost, it may be authorized for development; otherwise, ways should be found to extend the life of the existing system. Determining a target cost is difficult, to be sure, but Chief Executive Officers in industry must make comparably difficult decisions on which their companies' survival depends.

The make-or-buy decision requires that the JRMB assess the need for a unique development program, and determine if it is possible instead to buy or adapt an existing commercial or military system. At present, DOD passes up many valid opportunities for adapting existing systems, opportunities that could improve military capability more quickly and at reduced cost.

We recommended, therefore, that the JRMB be restricted to make such trade-offs and then to decide whether to initiate full-scale development. The JRMB should have this authority for all joint programs and appropriate Services programs. It should evaluate major trade-offs proposed as a program progresses. Its determination, in effect, should substitute for the decision now made by the Defense Systems Acquisition Review Council at what is called Milestone II.

STATUS

On June 3, 1986, the Deputy Secretary of Defense abolished the Defense Systems Acquisition Review Council and replaced it with a restructured JRMB, which assumed responsibilities for reviews of milestones I, II, and III. This action was considered an interim measure by the Deputy Secretary to comply with the

Commission's recommendation. On September 1, 1987, the JRMB was replaced when the Defense Acquisition Board was created with the issuance of DOD Directive 5000.49 by the Deputy Secretary. The Board is chaired by the USD(A) and the Board's Vice Chairman is the Vice Chairman, JCS.

There are nine other permanent members. The Board is the primary forum used by DOD components to resolve issues, provide and obtain guidance, and make recommendations to DAE on matters pertaining to the DOD acquisition system. Specifically, the recommendations assist DAE with milestone and program reviews, acquisition policies, and acquisition resource recommendations. For example, the milestone II decision approves proceeding with the full-scale development phase for an acquisition program.

Primary considerations in this decision include: (1) program affordability versus military value, (2) program risk versus added military capability, (3) planning for transition to production, (4) surge and mobilization capacity, (5) factors effecting program stability, (6) potential common-use solutions, (7) milestone I results, (8) milestone authorization, (9) staffing, personnel, training, and safety assessment, (10) appropriate procurement strategy, (11) logistic support plans, (12) affordability and life-cycle costs, and (13) associated command, control, communications, and intelligence requirements, including communications security.

#### OUR COMMENT

Although a Board has been established to review DOD major weapon system acquisitions, the functions and responsibilities of the Defense Acquisition Board do not reflect those identified by the Packard Commission. For example, the Packard Commission recommended that the Board only be responsible for making the decisions at milestone II, which are necessary to initiate full-scale development of a major system. This is shown in our excerpt from the Commission's report. DOD requires the Board to review and recommend decisions at each of the 5 milestones for a major acquisition program. In our discussion on this point with DOD officials, they interpreted the recommendation to mean that the Board should review acquisition programs at a minimum of two milestones.

We recently completed a survey of the Office of the Secretary of Defense where the former USD(A) and DOD officials stated there was a disconnection between decisions of the Defense Acquisition Board and the planning, programming, and budgeting board (the

Defense Resources Board).<sup>3</sup> At the July 1988 Acquisition Leadership Conference, DOD officials in attendance, see recommendation 3.1, concluded there was a "disconnect between the resource decisions made in the life-cycle management process by the Defense Acquisition Board and the subsequent resource decisions made during the planning, program, and budgeting system process by the Defense Resources Board. This disconnection in decisionmaking by the Boards, and the lack of a satisfactory resolution to the problem, was one reason the former USD(A) resigned in September 1987.

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<sup>3</sup>In 1979, the "Rice Study" (Defense Resource Management Study: Final Report, Donald B. Rice, Study Director, the Rand Corporation, 1979) of the planning, programming, and budgeting system led to the Defense Resources Board being formed. Consisting of the various under secretaries and assistant secretaries in the Office of the Secretary of Defense, plus the Chairman, JCS, the Board identifies major issues in program review deserving the Secretary's attention. The Board resolves all lesser issues in program review.

Recommendation 3.9 (pg 59) **Program stability must be enhanced in two fundamental ways. First, DOD should fully institutionalize "baselining" for major weapon systems at the initiation of full-scale engineering development. Second, DOD and Congress should expand the use of multiyear procurement for high-priority systems.**

EXCERPT FROM THE  
COMMISSION REPORT

In connection with the decision to begin full-scale development of a major new program, the program manager should prepare a brief baseline agreement describing functional specifications, cost, schedule, and other factors critical to the program's success. This baseline agreement should be submitted, through the responsible Program Executive Officer and the Service Acquisition Executive, for approval by the Defense Acquisition Executive.

Within the terms of this agreement, the program manager should have full authority to execute the program. He should be fully committed to abide by the program's specified baseline and, so long as he does so, the Defense and Service Acquisition Executives should support his program and permit him to manage it. This arrangement would provide much-needed program stability, which could be enhanced significantly if the program were approved for multiyear funding.

STATUS

The Defense Acquisition Improvement Act of 1986 directed DOD to establish baselines for all major programs in terms of cost, schedule, and performance criteria. The law also required program deviation reports if the baselines were not expected to be achieved.

In August 1987, DAE directed the services to submit baselines for all major programs in full-scale development or production. The services, as of January 1988, had baselined every major program at or past milestone II (full-scale development).

In February 1988, DAE approved a majority of the program baselines and established a quarterly baseline reporting mechanism. The remaining baselines need to be submitted to DAE by the services for approval.

DOD is not considering using multiyear contracts for milestone authorized programs at this time. DOD and service officials

believe the milestone authorization procedures purpose was to effect program stability without awarding multiyear contracts.

OUR COMMENT

We believe that establishing program baselines is an important and vital step in maintaining oversight over major acquisition programs. Baselines can provide a clear set of program expectations against which to measure program progress.

Recommendation 3.10 (pg 60) **Rather than relying on excessively rigid military specifications, DOD should make much greater use of components, systems, and services available "off-the-shelf". It should develop new or custom-made items only when it has been established that those readily available are clearly inadequate to meet military requirements.**

EXCERPT FROM THE  
COMMISSION REPORT

This same principle--the expanded use of commercial items--can apply to a great variety of products and services bought by DOD. These range from personal computers, computer software, and professional services, to a host of non-technical products such as bath towels and steak sauce.

We recommend that the Defense Acquisition Executive take steps to assure a major increase in the use of commercial products, as opposed to those made to military specifications. He should direct the program managers get a waiver before using a product made to military specifications, if there is an available commercial counterpart. When a "make-or-buy" decision must be made, the presumption should be to buy. This would invert present procedures, biasing the system in favor of commercial products and services, but permitting the use of items made to military specifications whenever a program manager believes it necessary to do so.

STATUS

Legislation has been passed and DOD regulations have been revised to encourage greater use of nondevelopmental items.

Public Law 99-661 required the Secretary of Defense to (1) identify statutes and regulations impeding the acquisition of commercial and previously developed items, (2) recommend legislation, and (3) prescribe regulations promoting procurement of commercial and previously developed items.

As a result, DOD drafted the Defense Commercial Goods and Services Procurement Act of 1987. This act supported goals for increased use of commercial products sold in substantial quantities to the general public.

In addition, a Defense Federal Acquisition Regulation encouraging use of commercial products was issued on April 3, 1987. The regulation restated DOD's policy which is to

"Fulfill requirements for items of supply through the acquisition of non-developmental items to the maximum extent possible"

OUR COMMENT

As required by section 907 of the Defense Acquisition Improvement Act of 1986, we are evaluating actions taken by DOD to promote procurement of nondevelopmental items by removing impediments through regulatory changes and legislation.

**Recommendation 3.11 (pg 62) Federal law and DOD regulations should provide for substantially increased use of commercial-style competition emphasizing quality and established performance as well as price.**

EXCERPT FROM THE  
COMMISSION REPORT

Even when commercial products are not suitable for DOD's purposes, it can still use commercial buying practices to its advantage. Foremost among these practices is competition, which should be used aggressively in the buying of systems, products, and professional services. DOD clearly understands the need for such competition, which was articulated in the 1981 Carlucci Initiatives. Although DOD has made efforts in this direction, much more can be done. It is particularly important to focus on achieving more effective competition, modeled after the competitive procurement techniques used in industry.

Commercial procurement competition simultaneously pursues several related objectives: attracting the best qualified suppliers, validating product performance and quality, and securing the best price. Price is, of course, as important a factor in commercial procurement as it is in DOD procurement. But it is only one of several equally important factors. Price should not be the sole determinant, especially for procurement of complex systems and services. Defense procurement tends to concentrate heavily on selecting the lowest price offeror, but all too often poorly serves or even ignores other important objectives.

STATUS

DOD states that the following steps have been taken to implement this recommendation.

- Procurement officers are allowed to solicit using purchase descriptions. Use of functional specifications is required by law and regulation.
- DOD is doing a pilot program to develop commercial style competitive approaches that place strong emphasis on quality and timeliness.
- As part of the acquisition streamlining effort, DOD has identified 280 proposed changes to existing regulations to more closely align them with commercial style approaches. One hundred and seven have been approved.

-- DOD's procurement regulations were modified to foster a wider selection of commercial products from the government's scheduled contracts.

Recommendation 3.12 (pg 64) DOD must recognize the delicate and necessary balance between the government's requirement for technical data and the benefit to the nation that comes from protecting the private sector's proprietary rights. That balance must exist to foster technological innovation and private investment which is so important in developing products vital to our defense. DOD should adopt a technical data rights policy that reflects the following principles:

- If a product has been developed with private funds, the government should not demand, as a precondition for buying that product, unlimited data rights even if the government provides the only market.
- If a product is to be developed with joint private and government funding, the government's rights for data should be defined during contract negotiations.
- If a product is developed entirely with government funds, the government normally requires the rights in the resulting data to foster innovation, however, the government should permit the rights to reside in the contractor, subject to a royalty-fee license.

#### STATUS

The Defense Acquisition Improvement Act of 1986 directed the Secretary of Defense to prescribe regulations defining the legitimate interests of the United States, its contractors, and subcontractors in technical data. These regulations were required to be in place by June 12, 1987. The Defense Acquisition Regulatory Council updated the revised regulation issued on January 16, 1987, based on the public comments it received, and the final rule was implemented on May 15, 1987.

The major elements of the new regulation include:

- Contracting officers are to obtain the minimum data and data rights that are essential to meet the government's needs.
- Contracting officers are to identify data and data rights needs before award and, in major systems programs, before entering full-scale development.
- If development is privately funded, the government is entitled only to limited rights.

- For mixed funding, if a contractor funds at least 50 percent, a government purpose license rights will normally be obtained.
- If the government funds the entire development, unlimited data rights will normally be obtained.

Recommendation 3.13 (pg 66) The Secretary of Defense should have increased authority to establish flexible personnel management policies necessary to improve defense acquisition. An alternate personnel management system should be established to include senior acquisition personnel and contracting officers as well as scientists and engineers. Federal regulations should establish business-related education and experience criteria for civilian contracting personnel, which will provide the basis for a professionalization of their career paths. Federal law should permit expanded opportunities for the education and training of all civilian acquisition personnel.

#### STATUS

Although implementation of this recommendation is not fully complete, work related to this subject appears to be progressing. Title IX of Public Law 99-661 required the Secretary of Defense to develop a personnel plan to professionalize DOD acquisition personnel. The law specifically required the Secretary's plan to include

- assessing the feasibility and desirability of establishing an alternative personnel system;
- developing standards for the examination, appointment, classification, training, and assignment of acquisition personnel;
- recommending any changes to existing laws that would help enhance the professionalism of, and career opportunities available to, DOD acquisition personnel; and
- reporting to the Congress on the Secretary's plan.

In May 1987, the Deputy Secretary of Defense submitted the report required by Public Law 99-661. The Secretary's plan included two initiatives. First, it supported the administration's proposed Civil Service Simplification Act for an alternative personnel system based on the Navy's "China Lake" project.<sup>4</sup> Second, the plan stated that the Office of Personnel Management had established a requirement for 24 hours of business-related courses to enter the 1102 Contracting Series. Finally, DOD stated that it plans to press the Office of

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<sup>4</sup>Federal Personnel: Observations on the Navy's Personnel Management Demonstrations Project (GAO/GGD-88-79, May 3, 1988).

Personnel Management to make additional improvements in the acquisition personnel qualification standards.

Public Law 99-661 also required the Secretary of Defense to submit a report by November 1987 to the Senate and House Committees on Armed Services on the plan for coordinating DOD-managed educational programs for DOD acquisition personnel.

The Secretary submitted the coordination plan for acquisition educational programs on March 2, 1988. The plan is comprised of the three parts shown below:

- DOD Directive 5160.55, "Defense Systems Management College."
- DOD Directive 5000.xx, "Defense Acquisition Education and Training Program."
- A manual entitled "DOD-wide Career Program for Acquisition Personnel."

The two directives were awaiting signature. Directive 5160.55 states that the Defense Systems Management College will be the executive agency for coordinating all educational programs for all DOD acquisition personnel.

The yet unnumbered directive, 5000.xx, consolidates various directives into a single statement setting forth the policies and guidance for all DOD educational programs for acquisition personnel.

The DOD manual outlines the career paths for acquisition personnel in the department and specifies the required educational training needed for each acquisition position. The document was with the services for review and comment.

Recommendation 3.14 (pg 70) We recommend that the President, through the National Security Council, establish a comprehensive and effective national industrial responsiveness policy to support the full spectrum of potential emergencies. The Secretary of Defense, with advice from the Joint Chiefs of Staff, should respond with a general statement of surge mobilization requirements for basic wartime defense industries, and logistic needs to support those industries and the essential economy. The DOD and Service Acquisition Executives should consider this mobilization guidance in formulating their acquisition policy, and program managers should incorporate industrial surge and mobilization considerations in program execution.

#### STATUS

Implementation is continuing. The NSC has established the National Mobilization Interagency Group to address this recommendation. Two National Security Decision Directives have been issued, a strategy for strengthening industrial competitiveness is being developed, and an implementation task force is being established. On July 15, 1988, USD(A) provided a report to the Secretary of Defense entitled, Bolstering Defense Industrial Competitiveness. The report summarizes the nature and scope of the competitiveness problems, the causes of and potential solutions to the problems, and recommends actions which DOD should take.<sup>5</sup>

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<sup>5</sup>For an explanation of some of the issues and the entities addressing them, see our report, Industrial Base: Defense-Critical Industries (GAO/NSIAD-88-192BR, Aug. 15, 1988).

STATUS OF RECOMMENDATIONS ON  
GOVERNMENT-INDUSTRY ACCOUNTABILITY

Recommendations 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 concern industry ethics and internal controls and are discussed below.

Recommendation 4.1 (pp 81 & 83) **Defense contractors must promulgate and enforce codes of conduct that address their unique problems. The Commission makes the following specific recommendations regarding codes of conduct for defense contractors:**

Each contractor should review its internal policies and procedures to determine whether, if followed, they are sufficient to ensure performance that complies with the special requirements of government contracting. Contractors should adopt--or revise, if they have adopted--written standards of ethical business conduct to assure that they reasonably address, among other matters, the special requirements of defense contracting. Such standards of conduct should include:

- procedures for employees to report apparent misconduct directly to senior management or, where appropriate, to a member of the committee of outside directors--ideally the audit committee--that has responsibility for oversight of ethical business conduct; and
- procedures for protecting employees who report instances of apparent misconduct.

Recommendation 4.2 (pg 83) **To ensure utmost propriety in their relations with government personnel, contractor standards of ethical business conduct should seek to foster compliance by employees of DOD with ethical requirements incident to federal service. To this end, contractor codes should address real or apparent conflicts of interest that might arise in conducting negotiations for future employment with employees of DOD and in hiring or assigning responsibilities to former DOD officials. Codes should include, for example, existing statutory reporting requirements that may be applicable to former DOD officials in a contractor's employ.**

Recommendation 4.3 (pg 84) **Each contractor must develop instructional systems to ensure that its internal policies and procedures are clearly articulated and understood by all corporate personnel. It should distribute copies of its**

standards of ethical business conduct to all employees at least annually and to new employees when hired. Review of standards and typical business situations that require ethical judgments should be a regular part of an employee's work experience and performance evaluations.

Recommendation 4.4. (pg 84) Contractors must establish systems to monitor compliance with corporate standards of conduct and to evaluate the continuing efficacy of their internal controls, including:

- organizational arrangements (and, as necessary, subsequent adjustments) and procedural structures that ensure that contractor personnel receive appropriate supervision; and
- development of appropriate internal controls to ensure compliance with their established policies and procedures.

Recommendation 4.5 (pg 84) Each major contractor should vest its independent audit committee--consisting entirely of nonemployee members of its board of directors--with responsibility to oversee corporate systems for monitoring and enforcing compliance with corporate standards of conduct. Where it is not feasible to establish such a committee, as where the contractor is not a corporation, a suitable alternative mechanism should be developed. To advise and assist it in the exercise of its oversight function, the committee should be entitled to retain independent legal counsel, outside auditors, or other expert advisers at corporate expense. Outside auditors, reporting directly to the audit committee or an alternative mechanism, should periodically evaluate and report whether contractor systems of internal controls provide reasonable assurance that the contractor is complying with federal procurement laws and regulations generally, and with corporate standards of conduct in particular.

Recommendation 4.6 (pp 85-88) Contractors must develop and implement internal controls to ensure compliance with corporate standards of conduct and the requirements of defense contracting.

Defense contractors must individually develop and implement better systems of internal controls to ensure compliance with contractual commitments and procurement standards. To assist in this effort and to monitor its success, we recommend contractors take the following steps:

- Establish internal auditing of compliance with government contracting procedures, corporate standards of conduct, and

other requirements. Such auditing should review actual compliance as well as the effectiveness of internal control systems.

- Design systems of internal control to ensure that they cover, among other things, compliance with the contractor's standards of ethical business conduct.
- Establish internal audit staffs sufficient in numbers, professional background, and training to the volume, nature, and complexity of the company's government contracts business.
- Establish sufficient direct reporting channels from internal auditors to the independent audit committee of the contractor's board of directors to assure the independence and objectivity of the audit function. Auditors should not report to any management official with direct responsibility for the systems, practices, or transactions that are the subject of an audit. Such structure assures frank reporting of and prompt action on internal audit results. To encourage and preserve the vitality of such an internal auditing and reporting process, DOD should develop appropriate guidelines heavily circumscribing the use of investigative subpoenas to compel disclosure of contractor internal auditing materials.

EXCERPT FROM THE  
COMMISSION REPORT

Major contractor improvements in recommended self-governance will, no doubt, require considerable effort over several years. Making these improvements will also require greater involvement by contractors' boards of directors and top management. The importance of the executive leadership role in achieving a proper control environment cannot be overemphasized. The necessary initiatives must be instituted by industry, not government. Defense contractors must take the steps described above or run the risk of action by government, in response to public expectations, that may be both excessive and unavailing.

STATUS

Implementation is continuing. In January 1988, the Ethics Resource Center, Inc., of Washington, D.C., published its 1987 annual report on Public Accountability. The report identified 45 defense contractors that pledged ethical business conduct and compliance with federal procurement laws and regulations. The report contains responses from 34 contractors on questions

dealing with steps taken to implement the Defense Industry Initiatives on Business Ethics and Conduct.

In the late spring of 1986, representatives of 18 defense contractors met and drafted 6 principles that became known as the Defense Industry Initiatives on Business Ethics and Conduct in response to the Packard Commission's preliminary report. The initiatives promoted the implementation of policies, procedures, and programs in the following six areas:

- codes of ethics,
- ethics training,
- internal reporting of alleged misconduct,
- self-governance through implementating systems that monitor compliance with federal procurement laws and adopting procedures for voluntary disclosure of violations to the appropriate authorities,
- responsibility to the industry, and
- accountability to the public.

The Ethics Resource Center reported that the signatory companies have implemented codes of ethics, training and communication programs, and procedures for monitoring compliance with the code. The number of signatory companies (45) is small compared to the total number of firms doing business with DOD, however, they represent roughly one-half of DOD's fiscal year 1986 contract awards. The signatory companies, as part of the principle on public accountability, have agreed to an independent examination or review of their ethics policies, procedures, and programs annually for the next 3 years to demonstrate compliance with the initiatives. The companies believe the 3-year program will give added force to the initiatives and demonstrate that the defense industry is serious about its commitment to act according to the highest standards of business conduct.

#### OUR COMMENT

Efforts to institutionalize the initiatives will require their adoption by more than 45 defense contractors, and their implementation efforts must be sustained for an extended period of time. If the self-governance initiatives do not gain a greater acceptance and prove to be an effective method of improving the working relationship between industry and

government, then serious consideration should be given to legislation that would require an annual management report on the controls and an independent verification of management's representation.<sup>1</sup>

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<sup>1</sup>Statement of Charles A. Bowsher, Comptroller General of the United States, Before the Committee on Armed Services, United States Senate (GAO/T-NSIAD-88-38, July 11, 1988).

Recommendations 4.7 and 4.8 are closely related and are discussed below.

Recommendation 4.7 (pp 90-92) Oversight of defense contractors must be better coordinated among DOD agencies and Congress. Guidelines must be developed to remove undesirable duplication of official effort and, when appropriate, to encourage sharing of contractor data by audit agencies. The new Under Secretary of Defense (Acquisition) should establish appropriate overall contract audit policy. Among his other responsibilities, the new Under Secretary of Defense (Acquisition) should:

- oversee DOD-wide establishment of contract audit policy, particularly policy for audits conducted in support of procurement and contract administration;
- except for criminal investigations and DOD internal audits, supervise establishment of policy for all DOD oversight of defense contractors, including oversight performed by procurement and contract management organizations; and
- recognize established GAO and professional auditing standards.

Recommendation 4.8 (pg 94) To optimize the use of available oversight resources by eliminating undesirable duplication of official effort, contract audit policy should be designed to:

- delineate clearly respective responsibilities and jurisdictions of DOD oversight organizations;
- develop guidelines and mechanisms for DOD oversight organizations to share contractor data and otherwise to rely more extensively upon each other's work; and
- improve audit strategies for the conduct, scope, and frequency of contractor auditing. These strategies should reflect due consideration for contractors' past performance, the proven effectiveness of their internal control systems, the results of prior and ongoing reviews conducted by DOD organizations and by contractors themselves, and relative costs and benefits.

#### STATUS

The Defense Acquisition Improvement Act of 1986 and the Inspector General Act of 1978 place the authority to establish contract audit policy with the DOD Inspector General. The 1986 act requires USD(A) to prescribe policies in coordination with the

Inspector General, to ensure the prevention of duplicate audit and oversight activities by different elements of DOD.

Acquisition regulations have been changed to require on-site contract administration personnel to use a screening process to eliminate duplicate reviews and requests for contractor data. USD(A) and the Inspector General are reviewing the policies and procedures of the defense agencies in 18 areas where duplication has been alleged in audit/oversight of contractor operations.

The Defense Contract Audit Agency is required by DOD Directive 7600.2 to comply with auditing standards issued by the Comptroller General of the United States.

The Secretary of Defense, USD(A), DOD Inspector General, and the Defense Contract Audit Agency are participating in a joint effort to develop the Contract Risk Assessment Guide Program. This program will identify defense contractors having effective internal control systems that protect public interests in defense contracts. Contractors that can demonstrate the implementation of these internal controls will receive less direct government oversight. This program makes better use of DOD oversight resources and seeks to allow contractors to pursue efficiency and quality in their operations.

#### OUR COMMENT

While we support the goals and objectives sought by the Commission's recommendations, we do not support the designation of USD(A) to oversee establishment of DOD-wide contract audit policy, and supervise establishment of DOD-wide policy for oversight of defense contractors. The official or organization charged with operational responsibility should not control or determine the audit and investigation policy.<sup>2</sup>

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<sup>2</sup>Government Auditing Standards: By the Comptroller General of the United States, July 1988.

Recommendations 4.9, 4.10, and 4.11 are closely related and are discussed below.

Recommendation 4.9 (pg 94, Part B and pg 100) **The Department of Defense should vigorously administer current ethics regulations for military and civilian personnel to assure that its employees comply with the same high standards expected of contractor personnel. This effort should include development of specific ethics guidance and specialized training programs concerning matters of particular concern to DOD acquisition personnel, including post-government relationships with defense contractors. For these purposes, we recommend the following:**

- DOD standards of conduct directives should be developed and periodically reviewed and updated, to provide clear, complete, and timely guidance:
  - a. to all components and employees, on ethical issues and standards of general concern and applicability within DOD; and
  - b. to all acquisition organizations and personnel, on ethical issues and standards of particular concern to DOD acquisition process.

Recommendation 4.10 (pg 100) **The acquisition standards of conduct directive should address, among other matters, specific conflict-of-interest and other concerns that arise in the course of official dealings, employment negotiations, and post-government employment relationships with defense contractors. With respect to the last category, the Secretary of Defense should develop norms concerning the specific personnel classification, type of official responsibility, level of individual discretion or authority, and nature of personal contact that, taken together, should disqualify a former acquisition official from employment with a given contractor for a specified period after government service. These recommended norms, observance of which should be monitored through existing statutory reporting requirements, would establish minimum standards to guide both acquisition officials and defense industry.**

Recommendation 4.11 (pg 101) **DOD should vigorously administer and enforce ethics requirements for all employees, and commit necessary personnel and administrative resources to ensure that relevant standards of conduct are effectively communicated, well understood, and carefully observed. This is especially important for all acquisition personnel, to whom copies of relevant standards should be distributed at least annually.**

**Review of such standards should be an important part of all regular orientation programs for new acquisition employees, internal training and development programs, and performance evaluations.**

STATUS

DOD updated its Directive, 5500.7, on standards of conduct to reflect the sense of these recommendations on May 6, 1987. The revised Directive includes:

- Standards of conduct required of all DOD personnel.
- Criteria and procedures for reports required of certain former and retired military officers and former DOD civilian officers and employees presently employed by defense contractors, and former officers and employees of defense contractors presently employed by DOD.
- Penalties for violations of these standards.
- Direction to heads of DOD components to appoint an Agency Ethics Official to implement the standards of conduct directive.
- Establishment of a DOD Standards of Conduct Office to collect, review, and maintain financial disclosure reports and defense related employment reports; publish guidance to DOD components to promote uniformity of standards-of-conduct opinions throughout DOD; develop educational programs and materials that will serve as models for other DOD components, and provide reports to the Congress for DOD in accordance with the statutes.
- Establishment of a DOD Ethics Oversight Committee.

OUR COMMENT

Recent allegations of mismanagement and potential criminal activity suggest that strong and effective leadership is clearly necessary for these changes to become an integral part of the way in which business is done. We have recently initiated a review to focus on post-DOD reporting requirements and individual compliance with the reporting requirements.

Recommendations 4.12 through 4.15 are closely related and are discussed below.

Recommendation 4.12 (pg 101 and pg 111) Suspension and debarment should be applied only to protect the public interest where a contractor is found to lack "present responsibility" to contract with the federal government. The Federal Acquisition Regulation should be amended to provide more precise criteria for applying these sanctions and, in particular, determining present responsibility.

Specific measures should be taken to make civil enforcement of laws governing defense acquisition still more effective.

For these purposes, we recommend that the Federal Acquisition Regulation should be amended:

- to state more clearly that a contractor may not be suspended or debarred except when it is established that the contractor is not "presently responsible," and that suspension or debarment is in the "public interest"; and
- to set out criteria to be considered in determining present responsibility and public interest.

Recommendation 4.13 (pg 111) The Department of Defense should reconsider:

- "automatic" suspensions of contractors following indictment on charges of contract fraud;
- suspending and debarring the whole of a contractor organization based on wrongdoing of a component part;
- insulating its suspending/debarring officials from untoward pressures; and
- establishing uniform procedures to guide the review and decision-making process in each agency exercising suspension/debarment authority.

Recommendation 4.14 (pg 111) DOD should give serious consideration to:

- greater use of broadened civil remedies in lieu of suspension when suspension is not mandated; and

-- implementation of a voluntary disclosure program, and incentives for making such disclosures.

Recommendation 4.15 (pg 111) Specific measures should be taken to make civil enforcement of laws governing defense acquisition still more effective. These include passage of Administration proposals to amend the Civil False Claims Act and to establish administrative adjudication of small, civil false claims cases. In appropriate circumstances, officials charged with administration of suspension/debarment should consider application of civil monetary sanctions as a complete remedy.

#### STATUS

Action has been taken on the recommendations, but implementing efforts are not complete. DOD's supplement to the Federal Acquisition Regulation was amended and published for public comment. DOD's regulatory council is working with the Civilian Agency Acquisition Council to amend the Federal Acquisition Regulation to comply with the recommendations 4.12, 4.13, and 4.14.

Two pieces of legislation were enacted--Public Law 99-509, The Program Fraud Civil Remedies Act of 1986 and Public Law 99-562, The False Claims Amendment Act of 1986--which implement recommendation 4.15.

#### OUR COMMENT

We do not support recommendations 4.12 and 4.13. In February 1987, we issued a report to the Chairman of the House Committee on Government Operations<sup>3</sup> on the suspension and debarment procedures of government agencies. We concluded the regulations on suspension and debarment provide an effective tool for protecting the government against the risks associated with doing business with unethical contractors and for providing contractors with due process. Also, the regulations provide sufficient guidance regarding the types of business activity that might subject a contractor to suspension and debarment proceedings. One danger in attempting to more explicitly define each type of business practice that would be subject to

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<sup>3</sup>Procurement: Suspension and Debarment Procedures  
(GAO/NSIAD-87-37BR, Feb. 13, 1987).

suspension or debarment is that it might lead contractors to conclude that anything not specifically included would be acceptable.

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